IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 140 of 2004

HON'BLE MR.JUSTICE KSHITIJ R.VYAS

and

HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DAHOD DISTRICT PANCHAYAT

Versus

JAL CONSTRUCTIONS

Appearance:

MR MUKESH R SHAH for Petitioner No. 1-2

MR K.G. SUKHWANI, for Respondent No.1

CORAM : HON'BLE MR.JUSTICE KSHITIJ R.VYAS

and

HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 13/02/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE KSHITIJ R.VYAS)

1. Heard the learned counsel for the respective parties. Appeal admitted. Mr. K.G. Sukhwani, learned Advocate waives service for respondent no.1.

2. On a joint request of learned counsel for the respective parties this appeal is taken up for final hearing today.

3. The respondent no.1-original applicant was given a contract pertaining to Jakot Minor Irrigation Project, Taluka Dahod. A dispute arose between the parties and therefore the respondent no.1 filed a petition under the provisions of Section 20 of the Arbitration Act in the City Civil Court, Ahmedabad by way of Civil Suit No.3542/1998. The City Civil Court referred the dispute to an Arbitrator namely, Mr. M.H. Vakhariya, the respondent no.2 herein. The respondent no.2, after considering the facts and the evidence on record, declared the award on 31.5.1999. In view of the said award, the respondent no.1 filed an application under sections 14 and 17 of the Arbitration Act being Civil Misc. Application No.449/99 before the City Civil Court, Ahmedabad, praying that the respondent no.2 may be directed to file original award along with the record and proceedings and to draw the decree in terms of the said award. It was further prayed that interest at the rate of 18% per annum from the date of decree till the realisation and costs may be awarded. The respondent no.2 herein vide Civil Misc. Application No.458/99 filed the original award before the City Civil Court.

4. The City Civil Court, Ahmedabad, after hearing the parties, by order dated 10th February 1999, passed an award in Civil Misc. Application Nos.449/99 and 458/99 in terms of the award passed by the respondent no.2 herein. In this appeal the appellants have challenged the aforesaid award passed by the City Civil Court, Ahmedabad.

5. We have heard the learned counsel for the respective parties and perused the judgement and other relevant documentary evidence on record. As a result of this exercise, we are satisfied that the impugned judgement does not merit any interference in the appeal. Nothing has been pointed out to take a different view of the matter and in our opinion, the award passed by the respondent no.2 is just and proper and therefore the City Civil Court was also justified in passing the award in question.

6. However, we find substance in the submission of

the learned counsel for the respondent that the rate of interest awarded by the trial court at the rate of 18% per annum is on the higher side. With the change in economy and the policy of the Reserve Bank of India, the rate of interest has been lowered from time to time. Therefore, looking to the present downward trend in the rate of interest, we are of the opinion that it is just and proper to grant interest at the rate of 9% instead of 18% per annum. Learned counsel for the appellants is unable to object to this proposition in view of the decision rendered by the Supreme Court in the case of Kaushnuma Begum Vs. New India Assurance Co. Ltd, reported in AIR 2001 SC 485.

7. In the premises aforesaid, the appeal is partly allowed. The award passed by the trial court is modified to the extent that the respondent no.1-original claimant is entitled to interest at the rate of 9% per annum instead of 18% per annum as awarded by the trial court. The rest of the award stands confirmed. No order as to costs.

[KSHITIJ R. VYAS, J.]

[M.C. PATEL, J.]

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